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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ADENIRAN RICHARD ADEOGBA,

Plaintiff - Appellant,

v.

INS - HEALTH SERVICE; et al.,

Defendants - Appellees.

No. 06-17125

D.C. No. CV-02-01551-MHM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Mary H. Murguia, Distict Judge, Presiding

Submitted January 7, 2008**

Before: O'SCANNLAIN, SILVERMAN and GRABER, Circuit Judges.

Appellees' unopposed motion to dismiss is construed as a motion for summary affirmance. A review of the record and the opening brief indicates that the questions raised in this appeal are so insubstantial as not to require further

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). Appellant did not present his claim to the agency before he filed his complaint in district court as required by the Federal Tort Claims Act. *See* 28 U.S.C. § 2675(a) (providing that an “action shall not be instituted upon a claim against the United States for money damages” unless a claimant has first exhausted administrative remedies).

Accordingly, appellees’ motion for summary affirmance is granted, and we summarily affirm the district court’s judgment.

AFFIRMED.